IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

| AARON EUGENE DOSS | § | |
|--------------------|---|----------------------------|
| v. | § | CIVIL ACTION NO. 6:11cv132 |
| DIRECTOR, TDCJ-CID | § | |

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE AND ENTERING FINAL JUDGMENT

The Petitioner Aaron Doss, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 challenging the computation of his sentence. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The Magistrate Judge ordered the Respondent to answer the petition, and the Respondent filed a motion to dismiss asserting that Doss had not exhausted his state remedies, as required by 28 U.S.C. §2254(b) and (c). On July 14, 2011, the Magistrate Judge issued a Report recommending that the petition be dismissed without prejudice for failure to exhaust state remedies. A copy of this Report was sent to Doss at his last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. <u>Douglass v. United Services Automobile Association</u>, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED without prejudice for failure to exhaust state remedies. It is further

ORDERED that the Petitioner Aaron Doss is hereby DENIED a certificate of appealability *sua sponte*, with the denial of such certificate referring only to the dismissal of the present case and having no effect upon Doss' right to present his claims to the courts of the State of Texas, or upon his right to again seek relief in federal court in the event that he does not receive the relief sought in state court. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

So ORDERED and SIGNED this 22nd day of August, 2011.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE